

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 51, “Hospitals,” Iowa Administrative Code.

The proposed amendments adopt the 2010 Guidelines for Design and Construction of Health Care Facilities produced by the Facility Guidelines Institute as the minimum construction standards for hospitals and off-site premises licensed under Iowa Code chapter 135B.

The proposed amendments also contain provisions stipulating that hospitals and off-site premises shall be deemed to be in compliance with the minimum construction standards if the buildings met the construction standards in place at the time the buildings were built. Additional language in the proposed amendments requires that all hospitals and off-site premises meet the requirements of the State Building Code and the Life Safety Code.

The proposed rewrite of the minimum construction standards contains requirements for the filing of all construction documents with the State Fire Marshal’s office. The proposed amendments closely follow the submission requirements in the administrative rules of the State Fire Marshal’s office and further require that the responsible design professional certify that the building plans meet the requirements of the 2010 Guidelines unless a variance has been granted.

Proposed subrule 51.50(3) contains the provisions under which variances from the minimum construction standards may be sought. The introductory paragraph is expanded to include some of the components of a variance request, and several factors that the Director shall consider when making a determination.

Additionally, the administrative rules of the State Fire Marshal’s office, Building Code Bureau, contain the inspection standards to be used when existing buildings are inspected; these proposed amendments adopt the administrative rule language of the State Fire Marshal’s office for the inspection of existing hospitals and off-site premises.

Item 2 of the proposed amendments rescinds rules dealing with minimum construction standards in effect for specific periods. With the adoption of the proposed amendments in Item 1, it will not be necessary to differentiate the various construction guidelines used because the amendments in Item 1 contain language which deems existing facilities to be in compliance with previous editions of the guidelines.

The Department is unable to determine whether there is a fiscal impact associated with these proposed amendments. Hospitals and off-site premises are routinely and regularly designed using the latest construction guidelines. Adoption of the proposed amendments simply requires that all new construction plans be designed in accordance with the 2010 Guidelines. The proposed amendments also contain a provision under which any regulated entity may seek a variance from these requirements.

These amendments were approved by the Hospital Licensing Board at its July 27, 2010, meeting.

The State Board of Health initially reviewed the proposed amendments at its September 8, 2010, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before October 26, 2010. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or E-mailed to David.Werning@dia.iowa.gov.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135B.7. The following amendments are proposed.

ITEM 1. Rescind rule 481—51.50(135B) and adopt the following **new** rule in lieu thereof:

481—51.50(135B) Minimum standards for construction.

51.50(1) *Minimum standards.* Hospitals and off-site premises licensed under this chapter shall be built in accordance with the following construction standards.

a. Construction shall be in accordance with the standards set forth in Part 2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, produced by the Facility Guidelines Institute.

Existing hospitals and off-site premises built in compliance with prior editions of the hospital construction guidelines will be deemed in compliance with subsequent regulations, with the exception of any new renovations, additions, functional alterations, or changes in utilization to existing facilities, which shall meet the standards specified in this subrule.

b. In jurisdictions without a local building code enforcement program, the construction shall be in conformance with the state building code, as authorized by Iowa Code section 103A.7, in effect at the time of plan submittal for review and approval. In jurisdictions with a local building code enforcement program, local building code enforcement must include both the adoption and enforcement of a local building code through plan reviews and inspections.

A hospital or off-site premises that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the hospital or off-site premises is in compliance with the provisions of rule 661—205.5(100). In any case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the hospital shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

Rule 661—301.5(103A) shall not be applicable to hospitals and other structures required under this chapter to meet the provisions of the state building code.

c. The design and construction of a hospital or off-site premises shall be in conformance with NFPA 101: Life Safety Code 2000 as published by the National Fire Protection Association.

51.50(2) *Submission of construction documents.*

a. Submissions of architectural technical documents, engineering documents, and plans and specifications to the building code commissioner are the responsibility of the owner of the building or facility, although the actual submission may be completed by an authorized agent of the owner or the responsible design professional.

b. “Responsible design professional” means a registered architect or licensed professional engineer who signs the documents submitted.

c. Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the requirements of the applicable provisions of the state building code.

d. In section 107.2.5 of the International Building Code, 2009 edition, the word “permit” shall be replaced by the words “plan review.”

e. Submittals to the commissioner shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of professional engineering as defined by Iowa Code section 542B.2.

f. The responsible design professional shall certify that the building plans meet the requirements specified in subrule 51.50(1), unless a variance has been granted pursuant to subrule 51.50(3).

51.50(3) *Variances.* The director of the department may grant variances to building and construction guidelines as contained in the 2010 edition of the Guidelines for Design and Construction of Health Care Facilities. The hospital or off-site premises must submit a variance request in writing to the director. The request must demonstrate how patient safety and the quality of care offered will not be compromised by the variance. The facility must demonstrate its ability to completely fulfill all other requirements of

the service. The director shall make a written determination of the request. In determining whether a variance request shall be granted, the director shall give consideration to the following conditions and to any other conditions the director deems relevant:

- a.* The design and planning for the specific property shall offer improved or compensating features which provide equivalent desirability and utility;
- b.* Alternate or special construction methods, techniques, and mechanical equipment shall offer equivalent durability; utility; safety; structural strength and rigidity; sanitation; odor control; protection from corrosion, decay and insect attack; and quality of workmanship;
- c.* The health, safety or welfare of any patient shall not be endangered;
- d.* The variance shall be limited to the specific project under consideration and shall not be construed as establishing a precedent for similar acceptance in other cases;
- e.* Occupancy and function of the building shall be considered; and
- f.* The type of licensing shall be considered.

ITEM 2. Rescind and reserve rules **481—51.51(135B)** and **481—51.52(135B)**.